

## **REMARKS**

Applicants acknowledge receipt of the non-final Office Action dated August 12, 2009. Prior to entry of the present Reply and Amendment, claims 31, 32, 35, 36, and 39-54 were pending. Claims 39-54 stand withdrawn. Claims 33-34 and 37-38 were cancelled.

With the present Reply and Amendment, Applicants cancel claims 32 and 36. Applicants also amend claims 31 and 35 to recite, in part, the proper language of a Markush group that appeared in currently cancelled claims 32 and 36, respectively. Specifically, claims 31 and 35 are amended to recite that the autophagocytosis inducing compound is selected from the group consisting of MapLC3, GATE16, and Class III PI3 kinase. Claim 35 is further amended to address the previous improper Markush type species.

Reconsideration of the pending claims is respectfully requested.

### ***Information Disclosure Statement***

The Examiner has indicated that the information referred to in the Information Disclosure Statement has not been considered because the information was submitted on CD containing the references. Applicants acknowledge the Examiner's request for electronically filed documents and will expeditiously file the references previously submitted by compact disc.

### ***Objection to Claims 32 and 35***

Claim 32 stands objected to on the basis of a typographical error in "class III PI3 kinase". With the present Reply and Amendment, Applicants cancel claim 32 thereby obviating the objection.

Claim 35 stands objected to on the basis that claim 35 recites an improper Markush type species and has requested that the phrase "selected from the group consisting of" be used. With the present Reply and Amendment, Applicants amend claim 35 to recite the correct phraseology. Withdrawal of the objection is respectfully requested.

### ***Rejection of Claims 31 and Under 35 U.S.C. § 112***

Claims 31 and 35 stand rejected under 35 U.S.C. §112, first paragraph, on the basis that the phrase "an autophagocytosis inducing compounding" does not adequately limit the claims to

a particular species. With the present Reply and Amendment, claims 31 and 35 have been amended to recite that the autophagocytosis inducing compound is selected from the group consisting of Map1LC3, GATE16, and Class III PI3 kinase. Applicants believe that this Markush group adequately limits the claims and is described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the invention. Withdrawal of the rejection is respectfully requested.

***Rejection of Claims 31, 32, 35, and 36 Under 35 U.S.C. § 102***

Claims 31, 32, 35 and 36 stand rejected under 35 U.S.C. §102(a) as being anticipated by Eulenbert et al. (WO 03/066086), on the basis that Eulenbert et al. teach a method of using GABARAP to treat metabolic disorders including hypercholesterolemia. With the present Reply and Amendment, claims 32 and 36 are cancelled thereby obviating the rejection of these claims. Claims 31 and 35 have been amended to recite that the autophagocytosis inducing compound is selected from the group consisting of Map1LC3, GATE16, and Class III PI3 kinase. Claims 31 and 35 do not recite GABARAP as an autophagocytosis inducing compound. Eulenbert et al. do not recite each and every element of claims 31 and 35, expressly or inherently, and cannot anticipate the currently amended claims. Withdrawal of the rejection is respectfully requested for at least this reason.


Applicants further note that Eulenbert et al. do not render the instant claims obvious. Eulenbert et al. do not teach or suggest the mechanism of action taught by the present invention. Eulenbert et al.'s motivation to suggest that GABARAP may be useful for the treatment of diseases is very different than that undertaken in the present application. As such, Eulenbert et al.'s disclosure of the use of GABARAP to treat these diseases does not render obvious the use of Map1LC3, GATE16 and Class III PI3 kinase for the use in treating or preventing the instantly claimed disorders.

**CONCLUSION**

Applicants respectfully request favorable consideration of the claims in the form a Notice of Allowance. Applicants request that if the Examiner has any issue outstanding for resolution, the Examiner telephone the undersigned for expeditious handling.

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Respectfully submitted,



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